

# Public Services (Social Enterprise and Social Value) Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Cabinet Office with the consent of Mr Chris White, the Member in charge of the Bill, are published separately as [.]



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**B I L L**

TO

Require the Secretary of State and local authorities to publish strategies in connection with promoting social enterprise; to enable communities to participate in the formulation and implementation of those strategies; to require that public sector contracts include provisions relating to social outcomes and social value; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Social enterprise strategy**

- (1) The Secretary of State must prepare and publish a document setting out a strategy for the promotion by government departments of engagement in social enterprise in England (the “national social enterprise strategy”).
- (2) The national social enterprise strategy must be designed with a view to promoting participation in its implementation by persons or bodies appearing to the Secretary of State to be representative of those engaged in social enterprise and by the public, whether by monitoring its effectiveness or otherwise. 5
- (3) The Secretary of State may review the national social enterprise strategy and prepare and publish a new strategy to replace a previous national social enterprise strategy. 10
- (4) In preparing the national social enterprise strategy or a new strategy, the Secretary of State must—
  - (a) consult such persons or bodies appearing to the Secretary of State to be representative of those engaged in social enterprise as the Secretary of State considers appropriate; 15
  - (b) carry out such public consultation as the Secretary of State considers appropriate.
- (5) For the purposes of this section a person or body is engaged in social enterprise if—
  - (a) the person or body is carrying on a business; 20

- (b) the business's activities are being carried on primarily for a purpose that promotes or improves the social or environmental well-being of the United Kingdom;
- (c) the greater part of any profits for distribution is applied for such a purpose.

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## 2 Local authority strategies

- (1) Section 4 of the Local Government Act 2000 (strategies for promoting well-being) is amended as follows.

- (2) After subsection (1) insert –

“(1A) A local authority's sustainable community strategy must include – 10

- (a) their proposals in connection with promoting engagement in social enterprise in their area, and
- (b) a statement of measures proposed for enabling persons or bodies engaged in social enterprise in their area and such other persons as they consider appropriate to participate in the implementation of the proposals referred to in paragraph (a).” 15

- (3) After subsection (4) insert –

“(4A) For the purposes of this section a person or body is engaged in social enterprise if –

- (a) the person or body is carrying on a business; 20
- (b) the business's activities are being carried on primarily for a purpose that promotes or improves the social or environmental well-being of the United Kingdom;
- (c) the greater part of any profits for distribution is applied for such a purpose.” 25

## 3 Contracts of contracting authorities

- (1) Subsections (2) to (4) apply where a contracting authority is considering, in connection with the exercise of a function of the authority, the use of a public procurement contract.

- (2) The authority must consider how it might promote or improve the economic, social or environmental well-being of the United Kingdom by means of such a contract. 30

- (3) The authority must consider under subsection (2) only such matters as are relevant to the subject-matter of the contract and proportionate in all the circumstances. 35

- (4) The authority must consider whether to consult the persons (if any) for whom the authority is making provision in the exercise of that function.

- (5) If a contracting authority takes steps, in connection with the exercise of a function of the authority, for the purpose of entering into a public procurement contract, it must consider how to take into account the matters (if any) identified by it in its consideration under subsection (2). 40

- (6) The authority must consider under subsection (5), where that is appropriate in relation to matters so identified, the inclusion of provision in a public procurement contract so entered into.

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- (7) Subsections (5) and (6) are subject, in particular, to the Regulations and other obligations arising by virtue of the contract in question being a public procurement contract.
- (8) This section does not apply to the exercise of a function that relates to—
- (a) a matter in respect of which functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or
  - (b) a matter within the legislative competence of the National Assembly for Wales.
- (9) In this section—
- “contracting authority” means a public authority that is a contracting authority for the purposes of the Regulations;
  - “public procurement contract” means a contract that is regulated by the Regulations;
  - “the Regulations” means the Public Contracts Regulations 2006 (S.I. 2006/5) and any regulations amending or replacing those regulations.
- 4 Financial provisions**
- There is to be paid out of money provided by Parliament—*
- (a) *any expenditure incurred under this Act by a Minister of the Crown or government department, and*
  - (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*
- 5 Short title, commencement and extent**
- (1) This Act may be cited as the Public Services (Social Enterprise and Social Value) Act 2011.
- (2) Section 4 and this section come into force on the day on which this Act is passed.
- (3) The other provisions of this Act come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) This Act extends to England and Wales.

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*Mr Chris White*

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*Ordered, by The House of Commons,  
to be Printed, Xth November 2010.*

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LONDON – THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by  
The Stationery Office Limited  
£x.xx

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